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Date: June 13, 2005

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**PATENT**  
**38413.7**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Applicant:</b> Tsukasa YAMAMOTO et al.	
<b>Serial No.:</b> 09/221,656	<b>Art Unit:</b> 3628
<b>Filed:</b> December 23, 1998	
<b>Title:</b> A FLEXIBLE PRODUCTION AND MATERIAL RESOURCE PLANNING SYSTEM USING SALES INFORMATION DIRECTLY ACQUIRED FROM POS TERMINALS	<b>Examiner:</b> F. Poinvil

**REPLY BRIEF**

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants are filing this Reply Brief in response to the Examiner's Answer, dated April 11, 2005, in connection with the above identified application.

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**ARGUMENTS:**

In the Examiner's Answer of April 11, 2005, the Examiner maintained the rejection of claims 8-34, 40-53, 55, and 59-73 under 35 U.S.C. § 103(a) as being unpatentable over Brown, Rembert, and Beasley et al.

**Brown is directed to a retail system, not a manufacturing system**

In the last paragraph on page 10 of the Examiner's Answer, the Examiner alleged, "The inventory management of Brown performs similarly as the claimed main control unit and main production controller which receives sales information from the point of sales terminals, determines the production quantity of these needed goods" (emphasis added). Applicants cannot more strongly disagree with the Examiner's allegations concerning the inventory management application of Brown.

As acknowledged by the Examiner, for example, in the fourth full sentence on page 4 of the Examiner's Answer, Brown is completely silent concerning the specific details of the inventory management application. Further, contrary to the Examiner's allegations, there is absolutely no hint or suggestion in Brown that the inventory management application determines any "production quantity." The Examiner acknowledges this point in the last paragraph on page 10 of the Examiner's Answer, where he states:

It should be noted that the POS or the stores noted in Brown as most retail stores do not deal with the manufacturing of the goods they sell. These stores usually send the quantity of needed goods information to a distributor or manufacturer or any entity or provider of the goods or products they sell. The quantity need[ed] is based on the selling amount or quantity sold.

The Examiner failed to explain why the "quantity needed" at the retail level can be considered a "production quantity" when sent to either a distributor or a manufacturer. The "quantity needed" sent to a distributor cannot be the "production quantity" because by definition a distributor does not produce or manufacture. The "quantity needed" sent to a manufacturer also cannot be a "production quantity" because the "quantity needed"

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(otherwise known as sales orders, inventory items, purchase orders, estimates and work orders) is only one factor used in determining the "production quantity." That is, the Examiner has failed to explain why one of ordinary skill in the art of retail or manufacturing would consider that the "production quantity" to be the same as the "quantity needed."

Also in the last two sentences on page 10 of the Examiner's Answer, the Examiner alleged, "Brown further teaches connecting their system to other networks. See page 1, column 2 of Brown. Thus Brown would have transmitted these [sic] information to a manufacturing unit and/or a production unit."

These allegations are completely conclusory in nature. Brown fails to hint or suggest that the "other networks" referred to by the Examiner could be a manufacturing unit and/or a production. In fact, every system that Brown refers to is related to retail systems.

*The Examiner has failed to provide proper motivation for  
combining Brown, Rembert, and Beasley et al.*

In the third paragraph on page 11 of the Examiner's Answer, the Examiner alleged, "Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Brown, Rembert and Beasley et al[.] in order to produce needed goods/products at retail stores, thereby maintaining a level of needed goods to be sold."

In the paragraph bridging pages 13 and 14 of the Examiner's Answer, the Examiner alleged, "It would have been obvious to one of ordinary skill in the art to incorporate the inventory management system of Rembert into the system of Brown in order to detail out inventory data and requirements of a particular product."

In the first full paragraph on page 14 of the Examiner's Answer, the Examiner alleged, "It would have been obvious to the skilled artisan to incorporate the teaching of Beasley et al[.] into the combination of Brown and Rembert in order to manufacture a received quantity of products for accurate and timely producing and delivering of products to the plurality of point of sales terminals."

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Applicants have addressed each of these alleged motivations contained in the Appeal Brief of January 12, 2004 and repeat their arguments contained in the Appeal Brief of January 12, 2004.

With respect to the alleged motivation on page 11 of the Examiner's Answer, Applicants agree that retailers are motivated to maintain a level of needed goods to be sold. As previously noted, when faced with the need to maintain a level of needed goods, a person of ordinary skill in the retail art will typically place a work order, sales order, purchase order, etc. with a distributor or manufacturer. However, Applicants disagree that this would lead anyone, including a person of ordinary skill in the retail art, to specifically combine the different teachings of Brown (retail), Rembert (material requirements planning system), and Beasley et al. (manufacturing control).

With respect to the alleged motivation in the paragraph bridging pages 13 and 14, Applicants disagree that one of ordinary skill in the art of retail would use an inventory management system of Rembert that is used in the manufacturing of goods.

With respect to the alleged motivation on page 14, the Examiner has failed to explain how the manufacturing control system of Beasley et al. would accomplish either of the accurate and timely producing of products or the delivering of products to the plurality of point of sales terminals.

*The Examiner has failed to provide a reference, or a combination of references, that teaches or suggest the feature of "a main controller" as recite in Claim 22*

Claim 22 recites the feature of "a main controller ... for determining a **production quantity** of the plurality of products to be produced in the future **based on the sales information** received from the point of sales subsystem" (emphasis added).

In the paragraph bridging pages 11 and 12 of the Examiner's Answer, the Examiner admitted:

As per the appellant's argument that anyone who only receives sales orders, inventory items, purchase orders, estimates and work orders for a plurality of goods will not and could not have any idea about the point of sales information concerning individual sales of a plurality of products collected at a plurality of point of sales terminals because sales

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information from the point of sale is not conveyed in sales order, inventory items, purchase orders, estimates and work orders, the Examiner agrees. ... The sales order, inventory items, purchase orders, estimates and work orders discussed by the Appellant relate to the sales order and inventory items of other goods that the manufacturers of Rembert will need for the manufacturing of the items needed in the stores of Brown as determined by their inventory system.

According to the Examiner, the manufacturers of Rembert will not and could not have any information concerning point of sales information. Thus, it is impossible for the manufacturers of Rembert to determine the production quantity based on the sales information because the manufacturers of Rembert will not and cannot any information concerning point of sales information.

In the first full paragraph on page 12 of the Examiner's Answer, the Examiner stated, "Thus, the notion of determining a quantity of needed items whether to produce, manufacture or purchase is not novel or unobvious as such is routinely done in an environment where products are being consumed or used."

Applicants agree generally with the Examiner's statement that person of ordinary skill in the art of retail need to determine quantities of needed items. However, this is not what Applicants' claim as their invention. Specifically, Applicants' claim "a main controller ... for determining a **production quantity** of the plurality of products to be produced in the future **based on the sales information** received from the point of sales subsystem" (emphasis added). The Examiner has failed to provide a reference, or a combination of references, that teaches or suggests this feature.

In the first full paragraph on page 13 of the Examiner's Answer, the Examiner stated:

In response the combination of Rembert and Beasley et al. teach the various claimed functions of a flexible manufacturer system, a main controller and a manufacturing controller. Applicant is directed to column 8, line 46 to column 9, line 53 and column 30, lines 10-26 of Rembert and column 26, lines 55-60 and column 30, line 9 to column 32, line 51 of Beasley et al.

However, neither the portions of Rembert and Beasley et al. referred to by the Examiner nor any other portion of Brown, Rembert, and Beasley et al. teach or suggest the

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feature of "a main controller ... for determining a **production quantity** of the plurality of products to be produced in the future **based on the sales information** received from the point of sales subsystem" (emphasis added) as recited in Applicants' claim 22.

*The Examiner has failed to properly address*

*Applicants' evidence of non-obviousness*

In the paragraph bridging pages 15 and 16 of the Examiner's Answer, the Examiner stated

In response, it is noted that the submitted references describe the work or the advantage of the instant invention of the instant assignee, "Kaneko Ltd." . [sic] There are no ties between the claimed invention and the description provided in the submitted references. Thus, there is not a showing of Non-Obviousness present in these references as they are not related to the instant claims.

MPEP § 716.01, "Generally Applicable Criteria," states, "Where the evidence [traversing rejections] is insufficient to overcome the rejection, the examiner must specifically explain why the evidence is insufficient. General statements such as 'the declaration lacks technical validity' or 'the evidence is not commensurate with the scope of the claims' without an explanation supporting such findings are insufficient."

Applicants submit that the Examiner's three sentence response to Applicants' evidence of non-obviousness clearly falls within the general statements that are an insufficient response to Applicants' evidence. Accordingly, Applicants once again request that the Examiner fully consider Applicants' evidence of non-obviousness.

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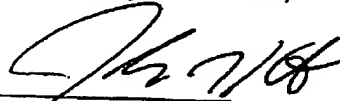
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Claims 8-73 are allowable over Brown, Rembert, and Beasley et al.

Accordingly, Applicants respectfully submit that the rejection of claims 8-34, 40-53, 55, and 59-73 under 35 U.S.C. § 103(a) as being unpatentable over Jim Brown, Rembert, and Beasley et al. should be reversed and that claims 8-73 are clearly allowable.

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Respectfully submitted,



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